



**NEVADA COMMISSION ON ETHICS  
STAFF REPORT AND RECOMMENDATION  
REGARDING JUST AND SUFFICIENT CAUSE**

REQUEST FOR OPINION NO.  
06-74 & 06-82

SUBJECT: JOHN A. BOHN, TRUSTEE  
INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT  
BOARD OF TRUSTEES

**A. JURISDICTION:**

In his capacity as a trustee of the Incline Village General Improvement District (IVGID) Board of Trustees, John A. Bohn is a public officer as defined by NRS 281.4365. As such, the Nevada Commission on Ethics has jurisdiction over this complaint.

**B. INVESTIGATIVE ACTIVITIES:**

- Reviewed Requests for Opinion (complaints) 06-74, received December 1, 2006 from Edward M. Gurowitz, and 06-82, received December 15, 2006 from Steven E. Kroll including (TAB B):
  - Timeline and supporting exhibits A through U from Mr. Kroll
  - Articles from *The North Lake Tahoe Bonanza* Newspaper from Mr. Gurowitz and Mr. Kroll
- Reviewed Request for Opinion (complaint) 06-83 received December 15, 2006 from Steven E. Kroll related to the same set of facts regarding the conduct of William S. Horn, general manager of the Incline Village General Improvement District (TAB B)
- Reviewed determination of lack of jurisdiction letters dated December 1 & December 20, 2006 from Commission on Ethics Executive Director to requesters; reviewed letters received December 7 & December 27, 2006 from requesters to Executive Director appealing the determination to a Commission panel; reviewed letters dated January 23, 2007 from the Executive Director to the requesters regarding the Commission panel's acceptance of jurisdiction (TAB C)
- Received *Waivers of Statutory Time Requirement* on January 24, 2007; reviewed responses received March 2, 2007 from Mr. Bohn by and through IVGID General Counsel, T. Scott Brooke (TAB D)
- Reviewed several articles published in the *North Lake Tahoe Bonanza* newspaper (TAB E)
- Reviewed NRS 318 General Improvement Districts (TAB F)
- Reviewed Jurisdictional Panel Proceeding transcript from January 19, 2007 (TAB G)

- Reviewed copies of selected documents including (TAB H):
  - Undated, unsigned, draft of first letter of resignation from Beverly Mapps to John Bohn, cover letter signed by “Bev Mapps” to “Scott” (Brooke), copy of front of envelope marked “Scott Brooke” & “Confidential” in which draft of first letter of resignation and cover letter were submitted by Ms. Mapps to IVGID General Counsel Brooke
  - Letter dated September 26, 2006 from John Bohn to Beverly Mapps
  - Second letter of resignation, dated September 11, 2006 (as reproduced in the *North Lake Tahoe Bonanza* newspaper online November 10, 2006)
  - *FAQ’s about Beach Access* from IVGID website ([www.IVGID.org](http://www.IVGID.org))
  - Board of trustees November 8, 2006 meeting agenda, minutes, and Ms. Mapps’ letter of resignation submitted to board
- July 2, 2007, interviewed former IVGID Trustee Beverly Mapps by phone
- July 3, 2007, requested copies of documents, additional information from IVGID General Counsel T. Scott Brooke

### **C. RECOMMENDATIONS:**

Based on the results of the investigation, it is recommended that the Panel find that just and sufficient cause **DOES NOT EXIST** for the Commission to hold a hearing and render an opinion in this matter relating to the provisions of:

- NRS 281.481(2)
- NRS 281.481(3)
- NRS 281.481(9)
- NRS 281.501(2)
- NRS 281.501(4)
- NRS 281.554

#### **SPECIFIC REASON:**

Sufficient credible evidence does not exist to support a finding of just and sufficient cause for the Commission to hear the matter and render an opinion on whether Mr. Bohn violated the provisions of NRS 281.481(2), NRS 281.481(3), NRS 281.481(9), NRS 281.501(2), NRS 281.501(4) and NRS 281.554.

Based on the results of the investigation, it is recommended that the Panel find that just and sufficient cause **DOES EXIST** for the Commission to hold a hearing and render an opinion in this matter relating to the provisions of:

- NRS 281.481(5)
- NRS 281.481(6)

#### **SPECIFIC REASON:**

Sufficient credible evidence does exist to support a finding of just and sufficient cause for the Commission to hear the matter and render an opinion on whether Mr. Bohn violated the provisions of NRS 281.481(5) and NRS 281.481(6).

**D. SUMMARY OF REQUESTS FOR OPINION (COMPLAINTS):**

The complaints, submitted by Edward M. Gurowitz, and Steven E. Kroll, collectively allege violations of NRS 281.481(2), NRS 281.481(3), NRS 281.481(5), NRS 281.481(6), NRS 281.481(9), NRS 281.501(2), NRS 281.501(4), and NRS 281.554 by Mr. Bohn regarding two separate issues. Mr. Kroll's complaint also alleges violations of the Nevada open meeting law, election law, and other Nevada laws.

The following is the substance of Mr. Gurowitz complaint (06-74):

Resignation of trustee Beverly Mapps from the IVGID Board of Trustees:

As chairman of the Incline Village General Improvement District Board of Trustees, John Bohn received a letter of resignation from board of trustees member, Beverly Mapps. Her letter was submitted to Mr. Bohn on September 11, 2006. However, Mr. Bohn requested Ms. Mapps to withhold her letter until after the November 7, 2006 board of trustees' election. Notwithstanding the fact that this letter was official board correspondence, Mr. Bohn did not inform any other board members about the letter of resignation, nor did Mr. Bohn place the matter on any board meeting agendas. As a candidate for re-election, Mr. Bohn had a conflict of interest and was in violation of board procedures by not disclosing Ms. Mapps' resignation at or about the time that it was submitted to him.

The following is the substance of Mr. Kroll's complaint (06-82):

Resignation of trustee Beverly Mapps from the IVGID Board of Trustees:

Mr. Bohn failed to inform the other IVGID board members and the general public, in a timely manner, regarding the resignation tendered by trustee Beverly Mapps. As a candidate for re-election, Mr. Bohn pocketed Trustee Mapps' resignation letter to conceal her severe criticism of Mr. Bohn for his failing to take corrective action relating to inappropriate conduct by a member of the IVGID management staff. In keeping secret the resignation and reasons therefore, Mr. Bohn "used his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself" to the injury of competing candidates and the general public. By concealing the information contained in the letter, he was able to suppress information that "might tend to affect unfavorably his pecuniary interests." Mr. Bohn used his position as Chairman to influence a subordinate, Ms. Mapps, to suppress her letter of resignation until after the election.

Mr. Bohn and General Manager Horn did not follow the appropriate process to fill the vacancy created by Ms. Mapps' resignation.

Exclusive access and use of beach property owned by the IVGID:

Mr. Bohn failed to disclose on his Financial Disclosure Statements for the years 2004 through 2006 that he has a beneficial interest in the exclusive access and use of beach property owned by the IVGID.

During the IVGID board of trustees' public workshop held on August 30, 2006, Mr. Bohn participated in the discussion and acted as an advocate on matters relating to his beneficial interest in the beach property owned by the IVGID. Mr. Bohn has a conflict of interest regarding his benefit of exclusive access and use of beach property owned by the IVGID in that his benefit is greater than that of those property owners who do not have access and use of beach property. Mr. Bohn failed to disclose his conflict of interest and failed to abstain from the discussion and voting.

**E. SUMMARY OF SUBJECT'S RESPONSE:**

*Waivers of Statutory Time Requirement* for both complaints were received from Mr. Bohn on January 24, 2007. Mr. Bohn submitted responses to both complaints by and through IVGID General Counsel, T. Scott Brooke, on March 2, 2007. The following is the substance of his responses:

Allegations included within the complaint concerning the open meeting law (NRS 241), the Nevada election law (NRS 293) and other Nevada laws are not addressed in this response since the Commission on Ethics has no jurisdiction as it pertains to those statutes.

The allegations in these complaints are factually and legally unsupportable.

Resignation of trustee Beverly Mapps from the IVGID Board of Trustees:

Mr. Bohn did not receive what he considered to be Ms. Mapps' official letter of resignation until after October 25, 2006. Mr. Bohn had received the draft resignation letter that Ms. Mapps' had submitted to and through IVGID general counsel in mid-September, but due to fact that the letter was undated and unsigned, Mr. Bohn was of the opinion that Ms. Mapps had not yet decided whether, when and how to announce her resignation, or if she would choose to proceed at all.

It is the practice of the IVGID to routinely provide correspondence received by the district to the board of trustees and members of the public at the next regularly scheduled meeting immediately after receiving such correspondence. That occurred in this instance regarding the letter of resignation. At the board of trustees meeting held on November 8, 2006, Mr. Bohn distributed a copy of the letter of resignation. This was the first public board meeting following his receipt of the letter. It is not clear if time allowed this matter to be placed on the agenda, but no action was taken at the November meeting.

The process of filling the vacancy created by Ms. Mapps' resignation was properly agendized at three separate and consecutive meetings. Exhaustive

discussions and opportunity for public participation took place on December 6 and 13, 2006, and January 10, 2007. A replacement trustee was selected at the January 10, 2007.

Mr. Bohn denies that he had any conflict of interest regarding this matter, due to the fact that he made the resignation public when it was officially presented to him on or about October 25, 2006. In any event, the period to declare candidacies for the board had expired in May 2006, and no additional candidate to fill Trustee Mapps' position could be added after May. Therefore, regardless of the timing of Ms. Mapps' resignation, the board of trustees would have the obligation to fill the vacant position.

As to the allegation in the request for opinion that the board procedures were not followed, there are no procedures in place on this matter, beyond the dictates of NRS 318.090.

Exclusive access and use of beach property owned by the IVGID:

On or about September 18, 2006, the district received a petition requesting that the members of the board of trustees recuse themselves from considering any matter regarding the beach property owned by the district. The background regarding ownership and use of this property is complicated; it has been the subject of prior litigation and is currently the subject of threatened litigation.

In an October 11, 2006 memorandum to the IVGID board, General Counsel Brooke advised the board that recusal was not required. Mr. Brooke advised the trustees that a trustee is precluded from acting on a matter only when their personal situation is different from that of others, and when there is a direct personal or pecuniary interest. The memorandum states, in part: "In this instance, the current board is not entering into a contract for purchase or sale of the property or any contract involving an individual trustee. Moreover, no existing Trustee is interested in the beach property in any manner that is different from any other property owner who has the benefit or burden of the deed restrictions. Accordingly, Counsel concludes that they are not 'interested' in the particular manner contemplated under [NRS 318.0956 and 318.0957]."

**F. RELEVANT STATUTES:**

**NRS 281.481 General requirements; exceptions.** A code of ethical standards is hereby established to govern the conduct of public officers and employees:

\* \* \* \* \*

2. A public officer or employee shall not use his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person. As used in this subsection:

(a) “Commitment in a private capacity to the interests of that person” has the meaning ascribed to “commitment in a private capacity to the interests of others” in subsection 8 of NRS 281.501.<sup>1</sup>

(b) “Unwarranted” means without justification or adequate reason.

3. A public officer or employee shall not participate as an agent of government in the negotiation or execution of a contract between the government and any private business in which he has a significant pecuniary interest.

\* \* \* \* \*

5. If a public officer or employee acquires, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, he shall not use the information to further the pecuniary interests of himself or any other person or business entity.

6. A public officer or employee shall not suppress any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.

\* \* \* \* \*

9. A public officer or employee shall not attempt to benefit his personal or financial interest through the influence of a subordinate.

\* \* \* \* \*

**NRS 281.501 Additional standards: Voting by public officers; disclosures required of public officers and employees; effect of abstention from voting on quorum; Legislators authorized to file written disclosure.**

1. Except as otherwise provided in subsection 2, 3 or 4, a public officer may vote upon a matter if the benefit or detriment accruing to him as a result of the decision either individually or in a representative capacity as a member of a general business, profession, occupation or group is not greater than that accruing to any other member of the general business, profession, occupation or group.

2. Except as otherwise provided in subsection 3, in addition to the requirements of the code of ethical standards, a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in his situation would be materially affected by:

(a) His acceptance of a gift or loan;

(b) His pecuniary interest; or

(c) His commitment in a private capacity to the interests of others.<sup>2</sup>

➡ It must be presumed that the independence of judgment of a reasonable person would not be materially affected by his pecuniary interest or his commitment in a private capacity to the interests of others where the resulting benefit or detriment accruing to him or to the other persons whose interests to which the member is committed in a private capacity is not greater than that accruing to any other member of the general business, profession, occupation or group. The

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<sup>1, 2</sup> **NRS 281.501(8):** As used in this section, “commitment in a private capacity to the interests of others” means a commitment to a person:

(a) Who is a member of his household;

(b) Who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity;

(c) Who employs him or a member of his household;

(d) With whom he has a substantial and continuing business relationship; or

(e) Any other commitment or relationship that is substantially similar to a commitment or relationship described in this subsection.

presumption set forth in this subsection does not affect the applicability of the requirements set forth in subsection 4 relating to the disclosure of the pecuniary interest or commitment in a private capacity to the interests of others.

\* \* \* \* \*

4. A public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon any matter:

(a) Regarding which he has accepted a gift or loan;

(b) Which would reasonably be affected by his commitment in a private capacity to the interest of others; or

(c) In which he has a pecuniary interest,

↳ without disclosing sufficient information concerning the gift, loan, commitment or interest to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the person to whom he has a commitment, or upon his interest. Except as otherwise provided in subsection 6, such a disclosure must be made at the time the matter is considered. If the officer or employee is a member of a body which makes decisions, he shall make the disclosure in public to the Chairman and other members of the body. If the officer or employee is not a member of such a body and holds an appointive office, he shall make the disclosure to the supervisory head of his organization or, if he holds an elective office, to the general public in the area from which he is elected. This subsection does not require a public officer to disclose any campaign contributions that the public officer reported pursuant to NRS 294A.120 or 294A.125 in a timely manner.

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**NRS 281.554 Public officer or employee prohibited from requesting or otherwise causing governmental entity to incur expense or make expenditure to support or oppose ballot question or candidate in certain circumstances.**

1. Except as otherwise provided in subsections 4 and 5, a public officer or employee shall not request or otherwise cause a governmental entity to incur an expense or make an expenditure to support or oppose:

(a) A ballot question.

(b) A candidate.

2. For the purposes of paragraph (b) of subsection 1, an expense incurred or an expenditure made by a governmental entity shall be considered an expense incurred or an expenditure made in support of a candidate if:

(a) The expense is incurred or the expenditure is made for the creation or dissemination of a pamphlet, brochure, publication, advertisement or television programming that prominently features the activities of a current public officer of the governmental entity who is a candidate for a state, local or federal elective office; and

(b) The pamphlet, brochure, publication, advertisement or television programming described in paragraph (a) is created or disseminated during the period specified in subsection 3.

3. The period during which the provisions of subsection 2 apply to a particular governmental entity begins when a current public officer of that governmental entity files a declaration of candidacy or acceptance of candidacy and ends on the date of the general election, general city election or special election for the office for which the current public officer of the governmental entity is a candidate.

4. The provisions of this section do not prohibit the creation or dissemination of, or the appearance of a candidate in or on, as applicable, a pamphlet, brochure, publication, advertisement or television programming that:

(a) Is made available to the public on a regular basis and merely describes the functions of:  
(1) The public office held by the public officer who is the candidate; or  
(2) The governmental entity by which the public officer who is the candidate is employed; or

(b) Is created or disseminated in the course of carrying out a duty of:  
(1) The public officer who is the candidate; or  
(2) The governmental entity by which the public officer who is the candidate is employed.

5. The provisions of this section do not prohibit an expense or an expenditure incurred to create or disseminate a television program that provides a forum for discussion or debate regarding a ballot question, if persons both in support of and in opposition to the ballot question participate in the television program.

6. As used in this section:

(a) "Governmental entity" means:

- (1) The government of this State;
- (2) An agency of the government of this State;
- (3) A political subdivision of this State; and
- (4) An agency of a political subdivision of this State.

(b) "Pamphlet, brochure, publication, advertisement or television programming" includes, without limitation, a publication, a public service announcement and any programming on a television station created to provide community access to cable television. The term does not include:

- (1) A press release issued to the media by a governmental entity; or
- (2) The official website of a governmental entity.

(c) "Political subdivision" means a county, city or any other local government as defined in NRS 354.474.

\* \* \* \* \*

## **G. RESULTS OF INVESTIGATION:**

### Resignation of trustee Beverly Mapps from the IVGID Board of Trustees:

In mid-September 2006, Mr. Bohn became aware of an undated, unsigned, draft letter of resignation given to the IVGID General Counsel, T. Scott Brooke, by Ms. Mapps for legal review. In her draft letter, Ms. Mapps suggests that her resignation is a result of Mr. Bohn's failure to take proper action regarding at least two serious incidents involving the conduct of the IVGID general manager. Mr. Brooke forwarded the draft to Mr. Bohn under cover letter dated September 18, 2006, stating: "[a]s we discussed on 14 September 2006, enclosed is an undated letter to you delivered to me on 13 September 2006, by Trustee Mapps, with the request that I forward it to you."

In his September 26, 2006 letter to Ms. Mapps, Mr. Bohn stated that he was hopeful that Ms. Mapps would reconsider her decision to resign and stated that he valued her judgment and perspective. He stated that as they discussed on September 7, he needed written complaints from those who had first-hand knowledge of the alleged misconduct of the general manager before Mr. Bohn could take action. Mr. Bohn and Ms. Mapps concur that Mr. Bohn attempted to dissuade Ms. Mapps from resigning.



In or about late October 2006, Ms. Mapps submitted to Mr. Bohn a second version of her original draft letter of resignation. This second version of the resignation letter was addressed to “John Bohn, Chairman of the Board, IVGID Board of Trustees” and was dated September 11, 2006. In her letter, Ms. Mapps stated that her decision to resign was based on the board of trustees’ inability or unwillingness to take meaningful action regarding serious issues that had arisen within the IVGID. Much of the detail regarding the management personnel issues discussed in her first letter had been removed from this second letter. Both the first and second versions of the resignation letter indicated that her resignation was effective December 31 or at such time a replacement was appointed, whichever occurred first.

November 7, 2006, then-chairman John Bohn and trustee Gene Brockman were re-elected as trustees to the IVGID board for four-year terms.

At the board of trustees meeting on November 8, 2006, Ms. Mapps’ resignation was publicly announced. Mr. Bohn distributed Ms. Mapps’ second version letter of resignation at the meeting. The letter, bearing a date September 11, 2006, contributed to speculation within the community that information related to Ms. Mapps’ resignation was inappropriately suppressed until after the November 7, 2006 election.

General Counsel Brooke summarized and clarified the facts regarding the resignation of Ms. Mapps in his December 6 and December 13, 2006 memoranda to the IVGID board of trustees.

In the December 6, 2006 memorandum, Mr. Brooke’s stated, in part:

“The letter of resignation from Trustee Mapps [distributed at the board of trustees meeting on November 8] was dated 11 September 2006. Some comment has been made and there is some speculation regarding motivations based upon the date of the letter. Counsel is advised that the letter was received by Trustee Bohn after the regular meeting of 25 October 2006, and prior to the regular meeting of 8 November 2006, at which time he made it public, notwithstanding the date on the letter.”

“Counsel was aware, prior to 8 November 2006, of Trustee Mapps’ stated intention to resign. On or about 14 September 2006, Counsel received a confidential letter from Trustee Mapps on the subject, which she requested I discuss with her and provide to Chairman Bohn, which was done. Chairman Bohn undertook to dissuade Ms. Mapps from her resignation. Counsel and Trustee Bohn were both of the opinion that Trustee Mapps would thereafter decide whether, when, and how to announce her resignation, if she chose to proceed. She did so by delivery of the referenced letter to Chairman Bohn in the first week of November 2006.”

In the December 13, 2006 memorandum, Mr. Brooke’s stated, in part:

“On 8 December 2006, Ms. Mapps provided a letter to the editor, printed in the *North Lake Tahoe Bonanza*, which provided additional information regarding her initial letter and her currently stated intent. The *Bonanza* . . . printed the entire and corrected letter on Sunday 10 December 2006.”

On Friday 8 December 2006, Counsel spoke with Trustee Mapps and requested and received her consent for public dissemination of her initial letter that she provided to Counsel on 13 September 2006, together with the cover letter. It is Counsel's understanding that the letter has both been made available to members of the public and printed in the *Bonanza* on this date."

"Counsel had treated Ms. Mapps' letter received 13 September 2006 as a confidential draft, and did not view or treat it as a letter of resignation. The letter was a copy, was not dated, and was not signed. The cover letter sought advice on how to proceed, i.e., how and to whom it should be submitted. In my conversation with Trustee Mapps, I suggested that she confer with Chairman Bohn regarding both the content and the timing of the letter of resignation. Chairman Bohn indicated he would follow up with Trustee Mapps; I took no further action. Thereafter Trustee Mapps asked if I had, in fact, provided the letter to Chairman Bohn, since she had not yet heard from him. I confirmed that I had, and mentioned the matter again to Chairman Bohn who assured me that he would follow-up. Ms. Mapps has said she received a letter on the subject from Chairman Bohn dated 27 September 2006."

"Counsel was thereafter advised by Chairman Bohn that Trustee Mapps had declined his invitation to reconsider the matter, and that she confirmed her intent to resign. Counsel did not have any further contact with Trustee Mapps regarding the matter until the Board meeting of 25 October 2006, when Counsel confirmed with Trustee Mapps her intention to resign, and sought and received her permission to so advise General Manager Horn."

"On 8 November 2006, Counsel received from Chairman Bohn a copy of Trustee Mapps' second letter, at the same time as did the Trustees. Counsel has confirmed with Trustee Mapps that it was written and sent to Chairman Bohn after the Board meeting of 25 October 2006, notwithstanding the indicated date of 11 September 2006. Trustee Mapps has indicated that she dated the letter on this date, since that was when she wrote the first letter provided to Counsel under cover of 13 September 2006. She has stated that she sent this letter to Chairman Bohn under cover of 26 October 2006."

In an e-mail dated July 3, 2007, an IVGID administrative staff person outlined the general process by which correspondence is received and distributed. The following is a summary of the process:

Correspondence is submitted to the Board of Trustees through the District offices located at 893 Southwood Boulevard. The envelope containing the correspondence is date stamped by the receptionist and submitted to the management assistant for distribution. Correspondence is then opened, and copies are made for each member of the board of trustees and the general manager. The correspondence is placed into a folder designated for items for the next board packet. Before the next board meeting, the board packet is

prepared to include the accumulated correspondence. The IVGID board meets the second and last Wednesday of each month.

E-mail related to a specific “hot” topic is typically sent to a specific e-mail address set-up to receive such e-mail. The e-mail received is accumulated and distributed, in hard copy format, in the same way as mail correspondence.

General e-mail received by the clerk of the board of trustees is distributed by e-mail to all trustees and included for the next meeting board packet.

If a piece of correspondence is directly mailed to a board member’s personal mailing address or e-mail address, it is the responsibility of the trustee to submit it for distribution and inclusion into the board packet.

December 8, 2006, the *North Lake Tahoe Bonanza* newspaper published a letter to the editor from Ms. Mapps. The letter is her recollection of the events of her resignation. During a July 2, 2007 telephone interview, Ms. Mapps confirmed that her letter was accurately published in the newspaper. The following is a summary of her letter to the editor:

On September 13, 2006, she submitted her resignation letter to General Counsel Brooke and on September 14, 2006 received feedback from Mr. Brooke that the letter looked acceptable, and that he would forward the letter of resignation to John Bohn.

She received a letter from Mr. Bohn dated September 26, 2006. Mr. Bohn said that he was available to meet with her to discuss the matter further, and hopefully, to convince her to withdraw her resignation.

Contrary to Mr. Bohn's statement, she never met with Mr. Bohn and Mr. Brooke together to discuss her impending resignation until after the election. She met with Mr. Bohn on October 11, 2006 and told him that she would not withdraw her resignation.

At no time did she indicate that she would change her letter in any way. As far as anyone was concerned, this was the only letter they were going to receive. She subsequently spoke with Mr. Bohn with regard to the timing of the announcement. Mr. Bohn stated that he thought her resignation should be made public at the November 8, 2006 board meeting. She had no reason to object to this decision.

Her resignation letter delivered to Mr. Brooke on September 13, 2006 contained very specific details regarding personnel matters. Her resignation was precipitated by what she considered to be a very serious incident involving an IVGID management employee and Mr. Bohn's refusal to handle the incident in an appropriate manner. The problem had been ongoing and she did not resign over just a single employee issue.

In an attempt to avoid controversy, she subsequently submitted an additional letter to Mr. Bohn dated October 26, 2006 wherein she removed many of the

specifics of the personnel matters while maintaining her criticism of the leadership of the board.

She reiterated that her first letter to Mr. Bohn was her resignation letter. She included a cover letter with her second resignation letter to Mr. Bohn asking him to distribute her original resignation letter of September 11, 2006 to all of the Trustees and to Mr. Horn. It is her understanding that, as of the date of her letter to the editor, the other Trustees had not been shown that letter.

December 13, 2006, the *North Lake Tahoe Bonanza* newspaper published an interview with Mr. Bohn regarding the publishing of Ms. Mapps' original resignation draft letter published in the *Bonanza* on December 13, 2006. The following is a summary of the interview:

Mr. Bohn stated that, as far as he could tell, the [published] text is what he received from Mapps back in September. He stated that the fact that the letter did not contain a date or signature gave him hope that he could dissuade her from resigning. He also questioned why Ms. Mapps pre-dated the second resignation letter that he received on October 26, 2006 as September 11, 2006.

January 19, 2007, the *North Lake Tahoe Bonanza* newspaper published a letter to the editor from Mr. Bohn. The letter is his recollection of the events of Ms. Mapps' resignation. On July 6, 2007, Mr. Brooke's office confirmed in a telephone voicemail, that Mr. Bohn's letter was accurately published in the newspaper. The following is a summary of the salient parts of Mr. Bohn's letter to the editor:

Ms. Mapps' first letter was neither dated nor signed, therefore legally it was of no effect, just like an unsigned check or will. He suggested that it would not have been a good idea to publicize the resignation until he was certain that she intended to resign. He advised the board and the public of her signed, second letter at the November 8, 2006, board meeting. The meeting occurred one week after he received her second letter.

The first letter contained libelous accusations and hearsay against a district employee that would have placed legal liability on the district had it been made public.

#### Exclusive access and use of beach property owned by the IVGID:

In the response made by and through his attorney, Mr. Bohn stated that "[t]he background regarding ownership and use of this property is complicated; it has been the subject of prior litigation and is currently the subject of threatened litigation."

The following article, recently published by the *North Lake Tahoe Bonanza* newspaper, summarizes the history of the issue regarding the matter of the exclusive access and use of beach property owned by the IVGID (*History of Issue Begins with Beach Purchase*, June 17, 2007; Andrew Pridgen, Bonanza News Editor):

The Incline Village General Improvement District (IVGID) was created by Washoe County under state law (Nevada Revised Statute 318), effective

June 1, 1961. NRS 318 authorized the district to levy taxes to pay for improvements and for five elected trustees to set up and run the district.

That year, IVGID issued bonds to pay the cost of building water, sewer and road improvements, and the bonds were repaid through assessments to property owners who benefited from the improvements.

In 1967, Washoe County amended IVGID's enabling ordinance to add recreation facilities to its responsibilities. In June 1968, IVGID purchased Burnt Cedar Beach and Incline Beach from Crystal Bay Development Company for \$2.1 million.

IVGID instituted a \$50 per year Recreation Fee (collected at the same time as property taxes) to pay for bonds to finance the purchase and make improvements. The deed to the beaches contains a restriction that limits access to the beaches to the district as it was constituted at the time of the purchase.

IVGID merged with Crystal Bay General Improvement District when their water system was brought up to IVGID standards in 1996. The deed restriction on IVGID beaches was upheld.

A lawsuit was filed in July 2001 by Beach Access, Inc., led by then Cal-Neva owner Chuck Bluth to open access to owners of all properties within IVGID's jurisdiction.

There were about 450 parcels outside the 1968 boundary, including all of Crystal Bay.

Members and representatives of the Village League to Save Incline Assets, said they intended to file an intervening suit opposing expansion of beach access.

The league's attorney, Mike Johnson, addressed the relevance of a Connecticut suit, *Leydon v. Greenwich*, which opened access to a residents-only Greenwich park to all on free speech grounds. He said it didn't apply to IVGID's case because Greenwich had no covenant granting its residents an easement to use the beach.

Bluth's case was later thrown out of court on a technicality and dismissed without judgment in early 2002.

In June 2006, a small group of Crystal Bay residents led by Frank Wright and Steven Kroll resurrected the beach access issue. A petition with 15 signatures of Crystal Bay residents was submitted to the IVGID board last fall.

In April 2007, the first of two beach access workshops for the public to air concern was held. In May, IVGID trustees approved \$200,000 toward any potential legal battle.

June 25, 2007, the IVGID published “Frequently Asked Questions About Beach Access” and made the document available through its website. The document answers questions regarding the acquisition of the beach properties, the terms of acquisition, the clause within the deed restricting beach access, the intent of seller and buyer at the time of acquisition, the tax status of the beach properties, what properties have been added to the IVGID since the purchase of the beaches, how those properties were affected by the limitations on beach access, who was made aware of the limitations to beach access, who pays beach access fees, and the authority of the IVGID Board of Trustees regarding beach access. Attachments to the document include the deed text, a resolution enlarging the boundaries of IVGID, the resolution creating the merger of the Crystal Bay General Improvement District with IVGID.

There are nearly 8,000 property owners within the original IVGID boundaries who have access to the beaches. These owners include all currently serving IVGID trustees. There are approximately 450 property owners, within the geographic area added by the merger, who do not have beach access. Those owners with beach access pay an additional beach access fee.

## **H. CONCLUSION:**

### ***Allegations regarding NRS 281.481(2):***

By withholding the information regarding the resignation of Ms. Mapps, Mr. Bohn is alleged to have used his position to secure or grant an unwarranted advantage for himself relative to his bid for re-election. The information contained within Ms. Mapps resignation letter included criticism of Mr. Bohn’s handling of personnel matters. Notwithstanding the criticism from Ms. Mapps, Mr. Bohn stated that his withholding the information was warranted in that Ms. Mapps’ resignation was not a certainty without a dated and signed letter of resignation. Furthermore, Mr. Bohn stated that the criticism contained allegations against a district employee that would have placed legal liability on the district had it been made public. Based on the plausibility of Mr. Bohn’s explanation for his actions regarding Ms. Mapps resignation, his actions may have been warranted. There is no credible evidence to support the allegation that Mr. Bohn acted in violation of NRS 281.481(2).

### ***Allegations regarding NRS 281.481(3):***

There are no specific allegations made, nor does any credible evidence exist to indicate that any contracts were being negotiated or executed between the government and any private business in which Mr. Bohn had a pecuniary interest. There is no credible evidence to support the allegation that Mr. Bohn acted in violation of NRS 281.481(3).

### ***Allegations regarding NRS 281.481(5):***

Mr. Bohn is alleged to have used information, acquired through his public duties, that was not available to people generally, to further his own pecuniary interest. *Black’s Law Dictionary*, eighth edition, defines a “pecuniary interest” as a financial interest involving money or its equivalent. Mr. Bohn is specifically alleged to have withheld information contained within the draft resignation letter that might have had an adverse effect on his bid for re-election. The IVGID has a general process by which correspondence is received and distributed to the board of trustees and the public. This process was not utilized in this instance. By not using the general process by which correspondence is received and distributed to the board of trustees and the

public, and by forestalling the announcement of Ms. Mapps' impending resignation until after the election, Mr. Bohn creates an appearance of attempting to use his knowledge of the resignation for personal gain. Therefore, credible evidence exists to support a determination that the Commission should hear the matter and render an opinion regarding whether Mr. Bohn violated NRS 281.481(5).

***Allegations regarding NRS 281.481(6):***

Mr. Bohn is alleged to have suppressed the letter of resignation because the criticism contained within the letter might have had an adverse effect on his bid for re-election. After reviewing all of the evidence, it is still unclear as to when the letter of resignation became a public "document" as referenced by this subsection. Ms. Mapps asserts that General Counsel Brooke indicated that there was no problem with her first letter of resignation. Further, at Ms. Mapps' request, Mr. Brooke transmitted the letter to Mr. Bohn shortly after reviewing the letter. Ms. Mapps has stated publicly that her first letter of resignation submitted in September 2006 was her official resignation. Mr. Bohn has stated publicly that he did not consider that her resignation was official until he received her second letter on or about October 26, 2006. The IVGID has a general process by which correspondence is received and distributed to the board of trustees and the public. This process was not utilized in this instance. By not using the general process by which correspondence is received and distributed to the board of trustees and the public, and by forestalling the announcement of Ms. Mapps' impending resignation, Mr. Bohn creates an appearance of attempting to suppress the first letter of resignation submitted by Ms. Mapps in an effort to conceal information contained within the letter that might tend to affect unfavorably his pecuniary interests. *Black's Law Dictionary*, eighth edition, defines a "pecuniary interest" as a financial interest involving money or its equivalent. Therefore, credible evidence exists to support a determination that the Commission should hear the matter and render an opinion regarding whether Mr. Bohn violated NRS 281.481(6).

***Allegations regarding NRS 281.481(9):***

As chairperson of the board of trustees, Mr. Bohn is alleged to have attempted to benefit his personal or financial interest by influencing Ms. Mapps to delay announcing her resignation from the board until after the November 7, 2006 election. Allegedly, the basis for her resignation would have been detrimental to Mr. Bohn's bid for re-election. Although Mr. Bohn was chairperson of the board of trustees at the time of the alleged conduct, he was a fellow trustee with Ms. Mapps. As such, Ms. Mapps' relationship to Mr. Bohn was not that of a subordinate to Mr. Bohn. There is no evidentiary basis to support the allegation that Mr. Bohn acted in violation of NRS 281.481(9).

***Allegations regarding NRS 281.501(2):***

Mr. Bohn is alleged to have advocated for retention of the exclusive rights to the beach access by the owners of the properties that formed the original IVGID. It is further alleged that the benefit accruing to Mr. Bohn as a result of his advocacy for exclusive beach access is greater than that accruing to any other member of the IVGID. There are nearly 8,000 property owners who share the same right of beach access. NRS 281.501(1) states that a public officer may vote upon a matter if the benefit or detriment accruing to him as a result of the decision either individually or in a representative capacity as a member of a . . . group is not greater than that accruing to any other member of the . . . group. The nearly 8,000 property owners are within the original

boundaries of the IVGID, and therefore, within the same group. The approximately 450 properties that were merged into the IVGID and do not have beach access are not part of the original group. There is no evidentiary basis to support the allegation that Mr. Bohn acted in violation of NRS 281.501(2).

***Allegations regarding NRS 281.501(4):***

Mr. Bohn's interest in the beach access is no more nor less than that of the nearly 8,000 property owners who share the same right of beach access. Any benefit or detriment accruing to Mr. Bohn as a result of any decision he might make is not greater than that accruing to any other member of the . . . group. There is no evidentiary basis to support the allegation that Mr. Bohn acted in violation of NRS 281.501(4).

***Allegations regarding NRS 281.554:***

There are no specific allegations made, nor does any credible evidence exist to indicate that Mr. Bohn requested or caused the IVGID to incur an expenditure to support or oppose either a ballot question or a candidate. Mr. Bohn directed Mr. Horn to develop a procedure for filling the vacancy created by the resignation of Trustee Mapps. This directive was consistent with NRS 318.090 regarding the filling of vacancies on the board. There is no evidentiary basis to support the allegation that Mr. Horn acted in violation of NRS 281.554.

**I. RECOMMENDATIONS:**

There is no credible evidence to substantiate a potential violation of NRS 281.481(2), NRS 281.481(3), NRS 281.481(9), NRS 281.501(2), NRS 281.501(4) and NRS 281.554. Accordingly, it is recommended that the panel find just and sufficient cause **DOES NOT EXIST** for the Commission to hold a hearing and render an opinion regarding whether Mr. Bohn violated the provisions of NRS 281.481(2), NRS 281.481(3), NRS 281.481(9), NRS 281.501(2), NRS 281.501(4) and NRS 281.554.

There is credible evidence to substantiate a potential violation of NRS 281.481(5) and NRS 281.481(6). Accordingly, it is recommended that the panel find just and sufficient cause **DOES EXIST** for the Commission to hold a hearing and render an opinion regarding whether Mr. Bohn violated the provisions of NRS 281.481(5) and NRS 281.481(6).

Prepared by: Matt C. DiOrio DATED: 7/6/07  
MATT C. DI ORIO  
SENIOR INVESTIGATOR